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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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05/31/2007

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3509

7590 11/26/2008
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EXAMINER

ANDERSON, AMBER R

ART UNIT

PAPER NUMBER

3765

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/583,693	Applicant(s) PAPE, LESLIE	
	Examiner AMBER R. ANDERSON	Art Unit 3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) 1-23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 24-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is in response to Application filed on March 6, 2007 in which claims 1-36 are presented for examination, of which claims 1-23 have been cancelled

Status of Claims

Claims 24-36 are pending of which Claims 24, 34, and 35 are in independent form.

Claim Objections

1. Claims 24, 32, and 35 are objected to because of the following informalities: Claim 24, line 2 reads "portions to be work over" and should read "portions to be **worn** over"; Claim 24, line 8 reads "the joint(s) bends(s)" and should read "the joint(s) **bend(s)**"; Claim 32, line 15 reads "atoking, which" and should read "**a stocking**, with"; Claim 35, line 3 reads "said portion9s)" and should read "said **portion(s)**". Appropriate correction is required.

2. Claims 24-36 do not end in a period or start with a capital letter. Each claim must begin with a capital letter and end with a period. Appropriate correction is required in response to this action.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 24-29 and 31-36 are rejected under 35 U.S.C. 102(b) as being anticipated by Gray (USPN 5,606,745).

Regarding Claim 24, Gray discloses a clothing article (10) comprised of clothing material including one or more portions to be worn over one or more joints of a wearer (Fig. 1) and, incorporated onto or into the portion or each of said portions, a plurality of elongate resilient pieces which extend through each portion (32), each of which, when not under external stress, has a particular shape and, when the article is not being worn, maintains substantially that shape against the weight of the clothing material (Col. 3, lines 42-45 and Col. 4, lines 9-11), and which are arranged parallelally and co-extensively with each other within the article so that, when the article is received over the joint(s) of the body and the joint(s) bend(s), the clothing material tends to maintain the parallel positioning of the elongate resilient pieces (Fig. 1).

Regarding Claim 25, Gray discloses wherein the elongate resilient pieces, when the article is being worn and said joint(s) bend(s), bend to provide most of exercise

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resistance rather than stretch longitudinally to provide most of exercise resistance (Fig. 1; Col 4, lines 12-22).

Regarding Claim 26, Gray discloses wherein each elongate resilient piece takes the form of a strip of elastomeric material bonded to the clothing material (32, Fig. 3).

Regarding Claim 27, Gray discloses wherein each strip is of circular segmental cross-section to provide a flat face giving a relatively significant area for bonding (Fig. 3).

Regarding Claim 28, Gray discloses wherein each elongate resilient piece takes the form of a strip of elastomeric material formed integrally with said clothing material (Col. 3, lines 4-5; Fig. 3).

Regarding Claim 29, Gray discloses wherein each elongate resilient piece is encapsulated in a pocket (28) at said clothing material (Fig. 3).

Regarding Claim 31, Gray discloses wherein each elongate resilient piece is an elastomeric rod (Col. 3, lines 4-5).

Regarding Claim 32, Gray discloses an article in the form of any one of the group consisting of a full body suit with said portions to be worn over at least the wearer's

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elbow, shoulder, hip and knee joints, a body shirt, with said portions to be worn over the wearer's shoulder joints, thigh-waist, thigh-length shorts, with said portions to be worn over the wearer's hip joints, a sleeve-with said portion to be worn over one of the wearer's elbow joints, a legging, with said portion to be worn over one of the wearer's knee joints, a glove, with said portions to be worn over one set of the wearer's wrist, finger and thumb joints, and a stocking, with said portion to be worn over one of the wearer's knee joints (Fig. 1; Col. 2, lines 42-48).

Regarding Claim 33, Gray discloses wherein said clothing material is lightweight, flexible, stretchable and form-fitting (Col. 2, lines 42-48).

Regarding Claim 34, Gray discloses a method comprising bending a body joint against bending resistance of a plurality of elongate resilient pieces which extend through a portion of clothing material worn over said joint, the bending resistance providing most of the exercise resistance, said method further comprising, during said bending the elongate resilient pieces substantially parallel to each other (Col. 4, lines 12-22).

Regarding Claim 35, Gray discloses a clothing article (10) comprised of clothing material including one or more portions to be worn over one or more joints of a wearer (Fig. 1) and, incorporated onto or into said portion(s), one or more elongate resilient pieces (32) which extend(s) through said portion(s), each of which, when not under

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external stress, has a particular shape and, when the article is not being worn, maintains substantially that shape against the weight of the clothing material (Fig. 1; Col. 3, lines 42-45 and Col. 4, lines 9-11), and each elongate resilient piece taking the form of any one of the group consisting of a strip of elastomeric material bonded to the clothing material and of circular segmental cross-section to provide a flat face giving a relatively significant area for bonding, a strip of elastomeric material formed integrally with said clothing material, a helical extension spring, and an elastomeric rod (32; Fig. 1 & 3; Col. 3, lines 4-5).

Regarding Claim 36, Gray discloses wherein the or each elongate resilient piece is one of said helical compression spring and said elastomeric rod (Col. 3, lines 4-5) and is encapsulated in a pocket (28) at said clothing material (Fig. 3).

5. Claims 24, 25, 29-30, and 32-36 are rejected under 35 U.S.C. 102(b) as being anticipated by Greenfield (USPN 5,261,871).

Regarding Claim 24, Greenfield discloses a clothing article (20) comprised of clothing material including one or more portions to be worn over one or more joints of a wearer (Fig. 1; 22) and, incorporated onto or into the portion or each of said portions, a plurality of elongate resilient pieces (41) which extend through each portion (Fig. 1), each of which, when not under external stress, has a particular shape and, when the article is not being worn, maintains substantially that shape against the weight of the clothing material (Col. 6, lines 36-43), and which are arranged parallelally and co-

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extensively with each other within the article so that, when the article is received over the joint(s) of the body and the joint(s) bend(s), the clothing material tends to maintain the parallel positioning of the elongate resilient pieces (Fig. 1).

Regarding Claim 25, Greenfield discloses wherein the elongate resilient pieces, when the article is being worn and said joint(s) bend(s), bend to provide most of exercise resistance rather than stretch longitudinally to provide most of exercise resistance (Col. 6, lines 36-43).

Regarding Claim 29, Greenfield discloses wherein each elongate resilient piece is encapsulated in a pocket (40) at said clothing material (Fig. 1-5).

Regarding Claim 30, Greenfield discloses wherein each elongate resilient piece is a helical extension spring (61; Col. 8, lines 59-62).

Regarding Claim 32, Greenfield discloses an article in the form of any one of the group consisting of a full body suit with said portions to be worn over at least the wearer's elbow, shoulder, hip and knee joints, a body shirt, with said portions to be worn over the wearer's shoulder joints, thigh-waist, thigh-length shorts, with said portions to be worn over the wearer's hip joints, a sleeve-with said portion to be worn over one of the wearer's elbow joints, a legging, with said portion to be worn over one of the wearer's knee joints, a glove, with said portions to be worn over one set of the wearer's

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wrist, finger and thumb joints, and a stocking, with said portion to be worn over one of the wearer's knee joints (Col. 5, lines 4-7; Fig. 1, 2, 6 & 7).

Regarding Claim 33, Greenfield discloses wherein said clothing material is lightweight, flexible, stretchable and form-fitting (Col. 5, lines 4-11).

Regarding Claim 34, Greenfield discloses a method comprising bending a body joint against bending resistance of a plurality of elongate resilient pieces which extend through a portion of clothing material worn over said joint, the bending resistance providing most of the exercise resistance, said method further comprising, during said bending the elongate resilient pieces substantially parallel to each other (Fig. 1; Col. 6, lines 36-43).

Regarding Claim 35, Greenfield discloses a clothing article (20) comprised of clothing material including one or more portions to be worn over one or more joints of a wearer (Fig. 1) and, incorporated onto or into said portion(s), one or more elongate resilient pieces (41) which extend(s) through said portion(s) (Fig. 1), each of which, when not under external stress, has a particular shape and, when the article is not being worn, maintains substantially that shape against the weight of the clothing material (Col. 6, lines 36-43), and each elongate resilient piece taking the form of any one of the group consisting of a strip of elastomeric material bonded to the clothing material and of circular segmental cross-section to provide a flat face giving a relatively significant area

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for bonding, a strip of elastomeric material formed integrally with said clothing material, a helical extension spring, and an elastomeric rod (41; 61; Col. 8, lines 59-62).

Regarding Claim 36, Greenfield discloses wherein the or each elongate resilient piece is one of said helical compression spring (61; Col. 8, lines 59-62) and said elastomeric rod and is encapsulated in a pocket (40) at said clothing material (Fig. 1-5).

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Note the designs of the resistance garments of Karecki (US PG Pub 2001/0029224) and Holt et al. (USPN 5,555,562).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to AMBER R. ANDERSON whose telephone number is (571) 270-5281. The examiner can normally be reached on Mon-Thur, 8am - 6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Welch can be reached on (571) 272-4996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/AMBER R ANDERSON/
Examiner, Art Unit 3765

November 21, 2008

/Gary L. Welch/
Supervisory Patent Examiner, Art Unit 3765